

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

	X:	
	:	
In re	:	Chapter 9
	:	
City of Detroit, Michigan,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
	X	

**EX PARTE MOTION OF THE OFFICIAL COMMITTEE OF RETIREES
FOR AN ORDER SHORTENING NOTICE AND SCHEDULING AN
EXPEDITED HEARING WITH RESPECT TO THE MOTION *IN LIMINE*
TO EXCLUDE OPINIONS OR CONCLUSIONS AS TO THE CITY OF
DETROIT, MICHIGAN’S UNDERFUNDING OF PENSION LIABILITY**

The Official Committee of Retirees (the “Committee”) hereby moves for the entry of an *ex parte* order pursuant to FED. R. BANKR. P. 9006(c)(1) and 9007 and Rule 9006-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Michigan (the “Local Rules”) (a) shortening the notice period with respect to the Official Committee of Retirees’ Motion *in Limine* to Exclude Opinions or Conclusions as to the City of Detroit, Michigan’s (the “City”) Underfunding of Pension Liability (the “Motion”), and (b) scheduling a hearing on the Motion for October 23, 2013, immediately prior to the scheduled hearing on the City’s Eligibility to be a Debtor Under Chapter 9 of the Bankruptcy Code (the “Eligibility Hearing”). In support of this *Ex Parte* Motion, the Official Committee of Retirees respectfully states as follows:

Relief Requested

1. The Committee filed the Motion contemporaneously with the filing of the instant *Ex Parte* Motion. In the Motion, the Committee seeks entry of an order excluding opinions or

conclusions offered by Charles Moore or any other individual designated by the City to testify at the Eligibility Hearing.

2. By this *Ex Parte* Motion, the Committee seeks an order (a) shortening the notice period with respect to the Motion, and (b) scheduling a hearing on the Motion on October 23, 2013 at 10:00 a.m.

Basis for Relief

3. FED. R. BANKR. P. 9006(c)(1) provides that “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” FED. R. BANKR. P. 9006(c)(1). Local Rule 9006-1(b) further provides that “a party may file a motion for an *ex parte* order reducing or enlarging the time for a party to take any action or file any paper.” E.D. Mich. LBR 9006-1(b).

4. In addition, pursuant to FED. R. BANKR. P. 9007, “[w]hen notice is to be given under the [Bankruptcy Rule], the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.” FED. R. BANKR. P. 9007.

5. Together, these rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on shortened notice and approve the manner of notice of such hearing.

6. On September 18, 2013, the Committee took the deposition of Mr. Charles Moore, a principal of Conway MacKenzie, Inc., the City’s restructuring consultant.

7. As set forth in its Motion, the Committee believes that certain testimony that Mr. Moore may offer at the hearing is inadmissible under FED. R. EVID. 701 and/or 702.

8. Since the hearing at which Mr. Moore may seek to offer such testimony is scheduled for October 23, 2013, it is necessary to bring the Motion before the Court expeditiously. The Court has already scheduled a hearing in this case on October 23, 2013. Hearing the Motion at the same time will promote efficiency for all of the parties.

9. The Committee will serve this *Ex Parte* Motion via the Court's ECF system to the parties in the above-captioned proceeding, and will provide notice of the *ex parte* order promptly upon issuance.

10. For these reasons, the Committee submits that cause exists to schedule a hearing on its Motion for October 23, 2013, at 10:00 a.m., on shortened notice.

WHEREFORE, the Committee respectfully requests that this Court (i) enter an order substantially in the form attached hereto as Exhibit 1, granting the relief sought herein; and (ii) grant such other and further relief to the Committee as the Court may deem proper.

Dated: October 21, 2013

Carole Neville
DENTONS US LLP
1221 Avenue of the Americas
New York, New York 10020
Tel: (212) 768-6700
Fax: (212) 768-6800
carole.neville@dentons.com

Sam J. Alberts
DENTONS US LLP
1301 K. Street, NW
Suite 600, East Tower
Washington, DC 2005-3364
Tel: (202) 408-6400
Fax: (202) 408-6399
sam.alberts@dentons.com

By: /s/ Claude D. Montgomery
Claude D. Montgomery (P29212)
DENTONS US LLP
1221 Avenue of the Americas
New York, New York 10020
Tel: (212) 768-6700
Fax: (212) 768-6800
claudemontgomery@dentons.com

Matthew E. Wilkins (P56697)
Paula A. Hall (P61101)
BROOKS WILKINS SHARKEY & TURCO PLLC
401 South Old Woodward, Suite 400
Birmingham, Michigan 48009
Direct: (248) 971-1711
Cell: (248) 882-8496
Fax: (248) 971-1801
wilkins@bwst-law.com
hal@bwst-law.com

Counsel for the Official Committee of Retirees

EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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	:	
In re	:	Chapter 9
	:	
City of Detroit, Michigan,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
-----	X	

**ORDER GRANTING THE *EX PARTE* MOTION OF
THE OFFICIAL COMMITTEE OF RETIREES FOR AN ORDER
SHORTENING NOTICE AND SCHEDULING AN EXPEDITED HEARING**

This matter coming before the Court on the *ex parte* motion (the “Motion”) of the Official Committee of Retirees (the “Committee”) for an order shortening notice and scheduling an expedited hearing with respect to the Motion *in Limine* to exclude opinions or conclusions as to the City of Detroit, Michigan’s underfunding of pension liability, filed by the Committee; and the Court being fully advised of the premises; and good and sufficient cause having been shown;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. A hearing with respect to the Committee’s Motion *in Limine* to Exclude Opinions or Conclusions as to the City’s Underfunding of Pension Liability shall be held on October 23, 2013, at 10:00 a.m. (prevailing Eastern Time) before the Hon. Steven Rhodes in Courtroom 716, Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, Michigan.

Dated: October __, 2013

Steven Rhodes
United States Bankruptcy Judge

EXHIBIT 2

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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	:	
In re	:	Chapter 9
	:	
City of Detroit, Michigan,	:	Case No. 13-53846
	:	
Debtor.	:	Presiding: Hon. Steven W. Rhodes
	:	
-----	X	

CERTIFICATE OF SERVICE

I, Claude D. Montgomery, hereby certify that service of the Ex Parte Motion of the Official Committee of Retirees for an order shortening notice and scheduling an expedited hearing with respect to the Motion *in Limine* to exclude opinions or conclusions as to the City of Detroit, Michigan's underfunding of pension liability, was filed and served via the Court's electronic case filing and noticing system on October 21, 2013.

/s/ Claude D. Montgomery